

REPORT IN RESPONSE TO PROGRAM LETTER 2000-7  
LEGAL ADVICE AND REFERRAL CENTER  
CONCORD, NEW HAMPSHIRE

## INTRODUCTION

This report has been compiled and written by the Executive Director of the Legal Advice and Referral Center (LARC), Marilyn Billings McNamara, who succeeded founding Executive Director Connie Boyles Lane on June 1, 2001. This change in leadership has presented both a challenge and an opportunity with respect to the preparation of this report. The historical information referenced herein has been obtained from previous reports, oral history from staff, oral history and reports from other agencies, and the new Executive Director's pre-LARC years of experience with legal services, the justice system, the New Hampshire Bar Association, clients and other service organizations. The assessment of past practices, developing practices and future needs has been a major focus of the Executive Director's first nine months at LARC, however, as is true for all assessment tasks, this one remains unfinished. While this report is as comprehensive as possible, it must be stated that it does not represent a completely finished product.

### **1. To what extent has a comprehensive, integrated client-centered legal services delivery system been achieved in New Hampshire?**

New Hampshire's social and legal issues are not unique—the forest industry which fueled prosperity in the northern counties is dying, and the economy there is eroding. Population in the northern-most county, Coos, has been steadily decreasing for decades. The area depends on tourism now, with low-paying seasonal jobs taking the place of steady work in the lumberyards and mills of the past. Public transportation does not exist, there are few medical providers, schools are under-funded and the isolation of this beautiful region is an invitation to depression, alcoholism and domestic violence. In the seacoast region, there are jobs, there is some public transportation, the schools are better and the work force is trained. Unfortunately, there is no available affordable housing even for middle income families. Homelessness is rampant, long commutes from outlying areas reduce available income for workers, and non-owning tenants have no power over their living situations. In the middle section of the state, housing also remains an absolutely critical need. Despite better-than-average wages for the region, low and middle income workers are expending greater-than-average amounts for transportation to and from work and for housing. Longer commutes also mean longer day-care stays for small children, stress on families and expensive transportation problems. Poor quality or unavailable housing results in crowded and unsafe living arrangements for families, higher rent and heat bills and uncertain educational plans for children whose housing is disrupted. Throughout the State of New Hampshire, women with children are facing the end of TANF benefits with the prospects of low-paying jobs, low quality child-care, and no assured housing. A further challenge for New Hampshire is our increasingly diverse population in the urban areas of the state. While New Hampshire welcomes all who wish to live here, we are not equipped to deal with

language barriers and cultural differences outside of the few ethnic groups who have made New Hampshire home for centuries. The system scrambles to find translators, to address issues in culturally appropriate ways, and to understand the needs of new immigrants adjusting to a legal and social system not at all familiar to them.

The problems above translate to the need for legal services in the areas of housing preservation and new unit development, employment preservation, divorce and custodial disputes, consumer advocacy in automobile repair and purchase, predatory lending practices and fraud, domestic violence, child safety, access to education and training, availability of medical care, and access to justice for non-English speakers, to identify the most pressing needs.

No discussion of the legal needs of the citizens of New Hampshire and the efforts made to meet those needs can occur without pointing out that state support of court services is minimal. No innovation that involves increased participation by the court system is possible at this time. No electronic filing exists in New Hampshire, for example. No email communication exists between district courts or in the family law marital master program. The court computer system is operating on an ancient DOS system. Very little historical data can be accessed under the present system. Court personnel are currently restricted from traveling due to mileage payment concerns. Postage is an issue. There is a hiring freeze. The impoverishment of the court system at a time when pro se demand is at an all time peak is the single greatest impediment to access to justice for low income people in New Hampshire, and it is a serious impediment that cannot be overcome in the foreseeable future.

Despite the problems and challenges stated above, New Hampshire's legal services community remains optimistic that a comprehensive, integrated client-centered legal services delivery system, which has been partially achieved, can be achieved in full. Such a system depends upon the people who serve the clients and upon the motivation of the legal profession as a whole to support and serve the delivery model. We have that here. Some of the players in New Hampshire's legal services delivery system are described below:

The Legal Advice and Referral Center is a hot-line service providing the low-income citizens of New Hampshire with access to an attorney or paralegal to answer legal questions, provide brief advice and counsel, written materials and referrals in the areas of consumer law, family law, housing and certain public benefits, all subject to LSC rules, regulations and restrictions. LARC also provides limited direct representation to selected clients based on unavailability of other resources, need for attorney skill maintenance and subject matter. There is a twelve person Board of Directors which meets in committee monthly and as a full board quarterly.

New Hampshire Legal Assistance (NHLA) is a non-LSC funded organization that provides direct client services to low-income clients using the same income eligibility guidelines as LARC, but offering a wider range of services, some of which are not permitted under LSC requirements. NHLA has four law offices in New Hampshire, one

in the state's northern area, one in the west, one on the seacoast and one in the heaviest population area. Telephone advice and counsel is also supplied through a Senior Hotline. In addition, NHLA has a state-wide Violence Against Women Act program. NHLA has a 20 person Board of Directors which meets in committee monthly and meets as a full board quarterly. The LARC and NHLA committees and boards meet jointly and discuss issues jointly, while retaining individual responsibility for board decision-making.

The New Hampshire Bar Association has a Pro Bono Referral Program whose policy is overseen by a Board of Directors separate and apart from the New Hampshire Board of Bar Governors. The Pro Bono Program receives referrals from LARC, NHLA and other organizations and places clients with private attorneys who agree to represent clients with issues ranging from uncontested divorces to difficult and complex disputes involving divorce, custody, property rights, consumer problems, bankruptcy, wills, guardianships and other matters. In addition to the direct referral service, the Executive Director of the Pro Bono Program also oversees the Lawyer Referral Service of the NH Bar Association, which receives requests for referrals for full-fee representation and reduced-fee representation in New Hampshire. LARC estimates that it refers approximately 1,400 clients to the LRS program annually.

The Disabilities Rights Center is another legal service agency in New Hampshire, representing disabled clients whose legal problems arise out of their disability.

The New Hampshire Bar Association is a mandatory bar with a membership in the range of 5,000. An estimated 3,000 of those individuals are in active practice in New Hampshire at this time. Of this number, approximately 900 members have at one time or another indicated a willingness to accept Pro Bono referrals from the Bar's Pro Bono program. Approximately 600 lawyers of that number are regular contributors of free legal services through the Pro Bono program. In addition to the NHBA, there are voluntary bar associations in each county, in the larger municipality, and among certain interest groups. The voluntary bar associations also play a role in the delivery of legal services; one example will be discussed later.

The New Hampshire Bar Foundation has played a major role in the development of state planning among the legal services providers and is about to play an even greater role in the continued strength of our programs. The Bar Foundation, with a Board of Directors of twenty-one lawyers and lay leaders, has retained a consultant and will soon retain a Development Director to aid in the development and operation of a major legal services funding campaign. This campaign's goal is to increase the financial contribution of New Hampshire lawyers from the current 10% participation rate, to a much more significant number (while continuing to encourage those attorneys who contribute their time through Pro Bono to maintain that commitment). The Bar Foundation has also awarded a state planning grant to LARC for use in meeting with the legal services providers and improving our communications and planning efforts.

Franklin Pierce Law Center is the only law school in New Hampshire. With a national reputation in Intellectual Property, the state's law school also has a strong

commitment to legal services and community lawyering. The Civil Practice Clinic at the law school provides representation to Merrimack County clients in need of short term legal help, and receives referrals from LARC and other agencies. The law school also supports legal interns in private placements, and the placement of an intern at LARC is under discussion.

Our comprehensive delivery system works in the following manner: a client may call any organization above with a problem and receive a referral to any other agency deemed appropriate or available to provide a service. We are all familiar with our respective priorities, eligibility guidelines and restrictions. By regular communication, we know what areas of the law may be of heightened concern at the moment, or who in particular has developed an interest or expertise in a certain area. If the caller cannot place the referral call, frequently we (meaning all the agencies described above as well as others) will send an email or make a call to another agency to make an inquiry for the client. Program staff provide inter-agency feedback to one another as to referrals made, subject matters of interest, appropriateness of advice given, or rising trends. By way of example, the Pro Bono Program sponsored a Landlord/Tenant Continuing Legal Education seminar recently. Speakers included NHLA housing lawyers, a member of the private bar who does Pro Bono landlord/tenant cases and a housing lawyer from LARC. The gathered audience consisted largely of private lawyers willing to represent tenants in eviction cases. This CLE program received rave reviews from the attorneys who attended. Soon, they will each receive a request to represent a client referred to Pro Bono. If that referral came through LARC, they will receive a personal note from the LARC advocate thanking them for accepting the case and inviting feedback.

Staff members from the various agencies above serve on committees and boards such as the Coalition Against Domestic Violence, where they interact routinely. They have supervision and training programs together from time to time. Inter-agency contacts occur daily.

In addition to staff communication, the directors of the agencies meet and talk regularly. The Executive Director of LARC, for example, has met with the NHLA Executive Director and the Pro Bono Director and attended the Pro Bono Board Meeting within the last week, a not unusual week. The Supreme Court Task Force on Pro Se Litigants includes the NHLA Executive Director, the LARC Executive Director and soon, the Pro Bono Executive Director, as well as the past president of the New Hampshire Bar Association, judges, court staff and other private bar members. The LARC Executive Director sits on the NH Bar Foundation and the NH Board of Bar Governors, while the Pro Bono Director communicates daily with the Bar Foundation Executive Director due to the proximity of their offices and interests. In New Hampshire, it is impossible not to communicate with others of like mind. More importantly, it is vital to the functioning of all of our legal systems that we manage disputes and misunderstandings quickly and mediate our differences expeditiously. We are a small state with a close bar; while there is room for dissent we cannot exist without resolving our differences as soon as they arise.

Working together, the system provides availability to equitable legal assistance capacities to many of our clients. Lack of transportation remains a serious issue; those in rural areas who cannot travel to an office of NHLA can at least contact LARC through our toll-free hotline, and arrangements can be made for further assistance if need be. The elderly can call a hotline at NHLA and talk to a person, not a machine, eliminating a barrier for them. Through the use of community resources, a translator can be located most of the time in the case of a non-English speaker, although the advocates using translators have wished for more access to legally-trained native speakers. The Disabilities Rights Center has an interest in those confined to institutions and services some of those clients, although our ability to provide legal aid to impaired clients is limited if no telephone call can be made as we are heavily dependent on telephone referrals.

LARC is currently working on an integrated web site that will bring together all of the service providers mentioned above, the court system and other interested providers. This website is slated for launch in September. The new website will include even more opportunities for low income people to receive legal information and possibly appropriate forms for self-representation. The Pro Bono program has recently produced a manual for pro se litigants doing their own divorces that is so comprehensive and clear the court system has purchased 600 copies for distribution (at a fee) to pro se litigants. This manual will, in some form, appear on the website. LARC produces brochures and delivers thousand of brochures on topics ranging from custody to automobile repair fraud to the court system, individual clients, public welfare offices and other agencies. NHLA and Pro Bon do the same. Many of these are on websites now, soon they will all be together at one site.

One final example is important in this “we’re all in this together” state. The Coos County Bar consists of approximately 21 lawyers, mostly in their 50’s, who provide legal services to the northern region and receive compensation on a haphazard basis at best. They quite often do not participate in a formal Pro Bono referral process, they simply accept the client and stay with the case until it is finished. Some of these lawyers probably qualify financially for legal services based on their incomes and family sizes. Year after year, without recognition and without documentation, they simply see to it that justice is delivered to the people of their county. They joke about getting a quarter of a deer in June, or a pheasant on the doorstep—they don’t go to the grocery store without handing out legal advice to someone there—it’s what they do, it’s the life they have chosen. We are following them carefully, learning about what motivates them, rewarding them with recognition and CLE credits in their locale—3 hours from the rest of us—and thinking about what the future will look like when these folks are retired and there are no lawyers left in Coos County.

The legal services community is striving to identify and nurture new leaders. Those leaders contemplating retirement in ten years are casting wide nets looking for younger lawyers with passion and intellect—and including promising lawyers on committees, boards, CLE panels and other opportunities. The gender, race and ethnic characteristics of current leaders reflect New Hampshire as it exists now, but not the New

Hampshire we envision. This is a safe place to innovate and experiment, failures are celebrated along with successes and there is an ongoing discussion among staff and leaders about creative solutions, new ideas, and new ways of meeting client needs. We have several involved clients, however, more of the client population is involved in other community organizations outside the legal profession, so their input has been indirect. This needs to change.

There are no mechanisms in place to assess performance in relation to commonly-accepted external guides. There is not a formal protocol for undertaking system performance review. These are holes in our planning, and they need to be addressed in the year ahead. Some of the planning money awarded to LARC by the NH Bar Foundation will need to be used for just such an examination.

No benefit-to-cost analysis has been made in terms of creating our legal services delivery system, except through the rigorous discussion around such issues as opening a new local office in the southern city of Nashua—an NHLA decision presently at hand. Or a LARC decision recently made to change the bankruptcy referral system; using time records and waiting time data, we determined the most efficient way to make these referrals and changed the system accordingly.

New Hampshire could benefit from a needs survey, and from a full-scale client survey that looks at outcomes. We do not have the staff or funds to do such a survey or to track objective outcomes of cases. We are always concerned about those who cannot reach us because we simply do not have enough people to answer all of our calls, and those who are impaired and unable to use technology of any kind to seek help.

**2.) To what extent have intended outcomes of a comprehensive, integrated client-centered legal service delivery system been achieved including but not limited to service effectiveness/quality; efficiency; equity in terms of client access; greater involvement by members of the private bar in the legal lives of clients and client-community empowerment?**

It is not possible to answer these questions without using the word “we” and “our” which in the context of the provision of services in New Hampshire, means all of the legal services provider organizations. Our principal strategy at this time is to raise more money so we can supply more service workers to answer our telephones, provide direct representation, travel to sites for programs on legal topics directed at the low income community, create closer ties with our partners and develop awareness of the need for justice among members of the private bar. Without more people, our telephone brief service, counsel and advice will continue to be available only to the first people who call each day and not to callers who cannot wait on hold, or cannot call until after work. We think we have developed a balanced and diversified system of creating access to justice; that is, some of us provide service by telephone, some of us through traditional direct representation, some of us through Pro Bono representation and some of us through innovative technology. Yet, though our system is balanced, it needs to grow in all areas in order to more fully meet the legal needs of our clients. Our legal services

have expanded through coordination with all providers; possibly this can be quantified, although that has not been done.

The quality of services provided by the legal services delivery system has improved to the extent that trends are more quickly identified and can, therefore, be more quickly remedied and new legal theories can be discussed and utilized. Clients not appropriate to one program can be sent to another, sometimes so seamlessly that the client has to be reminded which program is providing the services. Shared training and legal supervision discussions increase staff skill levels and awareness of issues. One NHLA program staff member is quick to alert all programs when the Supreme Court makes a relevant decision in her field, a most appreciated effort. It is very likely impossible to quantify how services improve when lawyers talk to one another routinely, but it is well recognized that continuing legal education is a hallmark of a competent lawyer. Much of our communication is, indeed a form of such education.

There has not been a quantifiable improvement in the relative equity of client access with regard to access barriers since 1998. Public transportation remains a geographic barrier. Lack of staff available to personally answer a telephone means that some visually impaired or confused individuals are unable to readily access telephone services. Lack of trained native speakers available for new immigrants have been a challenge and continue to be a challenge. Lack of diversity among lawyers in New Hampshire is an ongoing challenge; recruitment is key, but with low legal services salaries and many perceived barriers to full acceptance, the prospect of attracting lawyers of diverse races and ethnicity is poor.

One advantage of New Hampshire's systems is our small size. Although there are geographic barriers for low income people without transportation, the small size of this state permits state-wide solutions. Many private lawyers, for example, will routinely appear in courts across the state if they have developed an interest in one particular area of the law. A Pro Bono lawyer in certain locations can appear in three different counties equidistant from her office. The county with the most severe shortage of Pro Bono lawyer, Coos, has other resources as previously described. The mechanisms that have been developed to ensure relative equity are in place and working—they consist of regular assessment on the part of agency directors and staff. Much of this assessment work occurs at LARC, because LARC takes all the calls from the state as a whole and can report difficulties with access to the entire system.

We believe the current model is efficient, but of course there are always improvements to be made. There is some duplication between programs, some of which is probably unavoidable. With appropriate technology, we could forward or transfer calls to the appropriate agency (and they to us) without the need for a second telephone call for a client, for example.

New Hampshire takes great pride in the high participation levels of private lawyers in legal services, but efforts are always ongoing to increase these numbers. This is done through quicker referrals, sometimes using email, the offering of CLE programs for low cost, the recognition of lawyers who provide services, acknowledgment in bar

publications, praise from the judiciary and any other means available to promote participation and facilitate services.

### **3. Are the best organizational and human resource management configurations and approaches being used?**

The configuration of programs have been previously discussed, the funding levels of the three programs most closely tied together are as follows, please note, these are summary figures:

<b>LARC budget</b>	<b>760,000</b>
LSC	602,000
Housing Authority	32,000
IOLTA	36,000
Other Funders	40,000
Technology Grant	50,000

<b>NHLA budget</b>	<b>2,486,900</b>
IOLTA	948,000
United Way	201,000
State Appropriation	220,000
HUD	108,000
Lawyer Fundraising	51,000
State Grants-homeless	44,000
DEAS/SCLP	133,000
Case revenue	147,000
Case Revenue	308,000
NH Charitable Found.	20,000
DV-Fed. Justice	210,000
All others	96,900

<b>Pro Bono budget</b>	<b>306,000</b>
IOLTA	130,000
LSC Sub grant	50,000
Publication sales	10,000
United Way	42,000
State VAWA grants	29,000
Donations	11,000
Interest	3,600
Golf tournament	11,000

From 1998 forward, the work of the organizations has been to assess and strengthen a system of referral and service that is sound. No historical information exists that documents any attempts to change the configuration over the past four years. There is no information available concerning any systems having been explored and then rejected. No changes are contemplated in the present configuration, except as the



configuration evolves through regular meetings and communication, advances in technology, and new challenges in the future. The three organizations are fortunate in that the size of their programs and the size of the state permits a high degree of flexibility and change, when needed, can occur quickly among providers.

The three major providers, LARC, Pro Bono and NHLA all use the same Kemps software. Pro Bono receives referrals from LARC electronically, dramatically reducing staff time in making referrals. All accounting systems, human resources management systems and case management systems are otherwise maintained separately. While there may be duplication of some services in these areas, the separation is necessary. Ideas are shared freely, personnel policies are in the process of being conformed for NHLA and LARC, and other research on various issues is shared freely.

## **CONCLUSION**

New Hampshire welcomes all ideas and innovations that make sense and we are particularly interested in outcome measurement of those outcomes that can be measured. We are able to experience outcome measurement in a subjective sense—our clients are grateful because we treat them with dignity and care. We are aware that, for some clients, the voice on our end of the telephone represents a last hope. We know that north country people don't like calling "way down to Concord" but when we finish talking with them, they thank us. What we do not know, and what we need to know, is whether the legal services we provide, together with our partners, is reaching the right population, whether there are others out there with a greater need, and whether we can somehow find a way to use our dollars in a way that will enable more low income clients to receive quality advice and service.